

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DATREC, LLC

Plaintiff,

v.

Case No.:

EPIC SYSTEMS CORPORATION,

JURY DEMANDED

Defendants.

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**PLAINTIFF’S, DATREC, LLC,  
COMPLAINT FOR PATENT INFRINGEMENT**

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Plaintiff, DatRec, LLC (“DatRec” or “Plaintiff”), by and through its attorneys, Davis & Kuelthau, s.c., files this Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,156,158 (“the ‘158 patent”) and U.S. Patent No. 8,381,309 (“the ‘309 patent”) (referred to as the “Patents-in-Suit”) by Defendant, Epic Systems Corporation (“Epic” or “Defendant”).

**I. THE PARTIES**

1. DatRec is a Texas limited liability company with its principal place of business located at 5218 Chandler St., Houston, Harris County, Texas.

2. On information and belief, Epic is a corporation existing under the laws of the State of Wisconsin, with a principal place of business located at 1979 Milky Way, Verona, WI 53593. On information and belief, Epic sells and offers to sell products and services throughout Wisconsin, including in this Judicial District, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Wisconsin and this Judicial District. Epic may be served at its place of business.

## **II. JURISDICTION AND VENUE**

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because DatRec's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Epic because: (i) Epic is incorporated in Wisconsin; (ii) Epic is present within or has minimum contacts within the State of Wisconsin and this Judicial District; (iii) Epic has purposefully availed itself of the privileges of conducting business in the State of Wisconsin and in this judicial district; and (iv) DatRec's cause of action arises directly from Epic's business contacts and other activities in the State of Wisconsin and in this Judicial District.

5. Venue is proper in this district under 28 U.S.C. §1400(b). Epic is incorporated in Wisconsin and resides in this Judicial District. Epic has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Epic conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Wisconsin and this Judicial District.

## **II. INFRINGEMENT**

### **A. Infringement of the '158 Patent**


6. On April 10, 2012, the '158 patent entitled "Method and System for Use of a Database of Personal Data Records" was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '158 patent by assignment. A true and correct copy of the '158 patent is attached as Exhibit A.

7. The '158 patent relates to a novel and improved manner of constructing a verified database of identified individuals capable of processing with a subgroup of at least one medical application.







8. Epic maintains, operates, and administers electronic health records that infringe one or more claims of the '158 patent, including one or more of claims 1-23, literally or under the doctrine of equivalents. Epic put the inventions claimed by the '158 patent into service (i.e., used them); but for Epic's actions, the claimed-invention's embodiments involving Epic's products and services would never have been put into service. Epic's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Epic's procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

Claim 1	Epic's Accused Systems
1. A method for using and managing a database, the method comprising:	<p>Plaintiff contends that Epic provides a system and/or method for using and managing a database:</p> <div data-bbox="386 1255 1295 1570"> <div>Connecting is key for providers who</div> <div> <u>use Epic to share 100 million records</u>  per month - both with each other and  with providers using other systems. If  your organization uses a different electronic health record system  or doesn't have an EHR, you can <u>access and exchange patient</u>  <u>records with the Epic</u> community in the following ways. </div> <div> 77,784,885  records exchanged this month </div> </div> <p>&lt;<a href="https://www.epic.com/interoperability/ehr-interoperability-from-anywhere">https://www.epic.com/interoperability/ehr-interoperability-from-anywhere</a>&gt;</p>

Claim 1	Epic's Accused Systems
	<p>Notes: Epic has records and user can access and exchange patient records with Epic, thus Epic includes a database to manage the records.</p> <p>Who is Epic?  <u>Epic is a healthcare software company that provides an electronic health record system to your healthcare providers. We also power your access to that information through MyChart, MyChartCentral, and Lucy.</u></p> <p>&lt;<a href="https://www.mychartcentral.com/FAQ.aspx">https://www.mychartcentral.com/FAQ.aspx</a>&gt;</p>
<p>providing a verified database of a plurality of identified individuals, the verified database comprising a plurality of individual-identifier data sets (IDSs) and relationship data; and</p>	<p>Plaintiff contends that a verified database of a plurality of identified individuals is provided which comprises a plurality of individual-identifier data sets (IDSs) and relationship data. The following exemplifies this limitation's existence in the Accused Systems:</p>  <p><u>Patients have personal and family health information at their fingertips with MyChart. They</u>  can message their doctors, attend e-visits,  complete questionnaires, schedule appointments,  and be more involved in managing their health.</p> <p>&lt;<a href="https://www.epic.com/software#PatientEngagement">https://www.epic.com/software#PatientEngagement</a>&gt;</p>
<p>processing said verified database in accordance with one or more parameters or conditions selected in accordance with at least one</p>	<p>Plaintiff contends that the verified database is processed in accordance with one or more parameters or conditions selected in accordance with at least one medical application and a sub-group database is created (for example, filtering, sorting, etc.) including data records of the individuals from the verified database having said one or more selected parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users. Further, data from the verified database is applied to provide personalized medicine service to at least one of the identified individuals. The following exemplifies this limitation's existence in the Accused Systems:</p>

Claim 1	Epic's Accused Systems
<p>medical application and creating a sub-group database including data records of the individuals from the verified database having said one or more selected parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users and enable to apply data from said verified database to provide personalized medicine service to at least one of said identified individuals;</p>	<p>Fletcher Allen Health Care is the tertiary care academic medical center affiliated with the University of Vermont that provides care for over 60% of the state's population<sup>14</sup>. <u>The Epic EHR (Verona, WI)<sup>15</sup> has been in use at Fletcher Allen since 2009 and includes a family history section for collecting information about the medical history and living status of family members in the inpatient and outpatient settings.</u> The medical history portion allows for structured entry of problems (selected from a locally customized list of 210 values such as Cancer, Diabetes, or "*" for Other), <u>familial relations</u> (selected from a list of 21 values such as Mother, Brother, Other, or Neg Hx for absence of a relative with a specific problem), and age of onset (expressed in years as a numeric value such as 68.0). The status portion of the section includes structured fields for relation and status (e.g., Alive or Deceased). Both portions include free-text fields for specifying the family member's name and providing comments. This study focuses on the comments associated with the medical history portion (Table 1).</p> <p>&lt;<a href="https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3540518/pdf/amia_2012_symp_0085.pdf">https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3540518/pdf/amia_2012_symp_0085.pdf</a>&gt;</p> <p>The understanding of a <u>patient's medical family history</u> is an essential component for patient management, risk assessment, personalized medicine, and clinical genomic studies<sup>1-4</sup>. Medical pedigrees, or "genograms," can be used as a powerful <u>clinical tool</u> when linked to relevant <u>phenotypic and genotypic data</u>. The development of technologies and resources to collect, represent, integrate, and generate pedigrees based on information captured within disparate electronic sources could be valuable for enriching existing knowledge, enabling better patient care, and facilitating research studies.</p> <p>&lt;<a href="https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3540518/pdf/amia_2012_symp_0085.pdf">https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3540518/pdf/amia_2012_symp_0085.pdf</a>&gt;</p> <p>Notes: phenotypic and genotypic data are "parameters or conditions".</p>

Claim 1	Epic's Accused Systems
	<p style="text-align: center;"><b>AI &amp; Analytics</b></p> <p style="text-align: center;">Smart tools informing complex decisions</p> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"> <p><b>Self-Service</b></p>  Empower the people closest to the patient to investigate their own hunches across populations, build dashboards, and take swift action directly from the results.</div> <div style="width: 50%;"> <p><b>AI</b></p>  <u>Augment decision making with our advanced machine learning algorithms embedded at the point of care. Or deploy your own models using our cloud-based platform.</u></div> <div style="width: 50%;"> <p><b>Catalog</b></p>  Distribute and curate all of your analytics content in a single web-based user experience. Combine dashboards, reports, and integrate BI tools all in a single governed catalog.</div> <div style="width: 50%;"> <p><b>Benchmarking</b></p>  See where you lead and where you can improve with clinical, financial, quality, and process benchmarks based on the worldwide Epic community.</div> <div style="width: 50%;"> <p><b>Data Management</b></p>  <u>Get quicker answers to complicated questions by combining different sources of clinical, operational, and financial data into a single data warehouse.</u></div> <div style="width: 50%;"> <p><b>Discovery</b></p>  Accelerate your research and discovery activities with embedded tools and workflows for study feasibility, recruitment, execution, and collaboration.</div> </div> <p>&lt;<a href="https://www.epic.com/software#PatientEngagement">https://www.epic.com/software#PatientEngagement</a>&gt;</p>
<p>wherein said providing of the verified database comprises: permitting a plurality of individuals to enter individual-associated data bits (IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and</p>	<p>Plaintiff contends that a verified database of a plurality of identified individuals is provided which comprises a plurality of individual-identifier data sets (IDSs) and relationship data. A plurality of individuals is permitted to enter individual-associated data bits (IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the nature of relationship. The entered IDBs are processed to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals. The following exemplifies this limitation's existence in Accused Systems:</p> <p><b>What is MyChart?</b> MyChart is a <u>web portal</u> offered by most Epic healthcare organizations that gives you controlled <u>access to the same Epic medical records</u> your doctors use and provides convenient self-service functions that reduce costs and increase satisfaction.</p> <p>&lt;<a href="https://www.mychartcentral.com/FAQ.aspx">https://www.mychartcentral.com/FAQ.aspx</a>&gt;</p>



Claim 1	Epic's Accused Systems
<p>the nature of relationship;</p> <p>processing the entered IDBs to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals.</p>	<div data-bbox="391 296 602 485"> </div> <div data-bbox="672 323 1357 369"> <h3>With a community partner that has Epic</h3> </div> <p data-bbox="672 426 1398 520">If you don't have an interoperable EHR and you share patients with an organization that uses Epic, you can get secure access to patient data in Epic in the following ways:</p> <div data-bbox="672 583 727 642"> </div> <p data-bbox="743 590 1414 720">The <b>EpicCare Link</b> web view gives you <u>access to your patient's record at an organization using Epic. With Internet access, you can review the patient's chart, schedule appointments, place orders, communicate with the patient's care team, and more.</u></p> <div data-bbox="672 783 727 842"> </div> <p data-bbox="743 789 1425 957">With the <b>Community Connect</b> program, an organization that uses Epic extends it to you so that Epic becomes your primary EHR. This partnership gives you the benefits of an EHR, including a patient portal and access to our national exchange network, without you having to host your own Epic system.</p> <p data-bbox="386 1136 1365 1167">&lt;<a href="https://www.epic.com/interoperability/ehr-interoperability-from-anywhere">https://www.epic.com/interoperability/ehr-interoperability-from-anywhere</a>&gt;</p>

10. These allegations of infringement are preliminary and are therefore subject to change.

11. Epic has and continues to induce infringement. Epic has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet) and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the

doctrine of equivalents. Moreover, Epic has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

12. Epic has and continues to contributorily infringe. Epic has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet) and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the doctrine of equivalents. Moreover, Epic has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

13. Epic has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '158 patent.

**B. Infringement of the '309 Patent**

14. On February 9, 2013, the '309 patent entitled “Method and System for Ecure Communiocation Over a Public Network” was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '309 patent by assignment. A true and correct copy of the '309 patent is attached as Exhibit B.

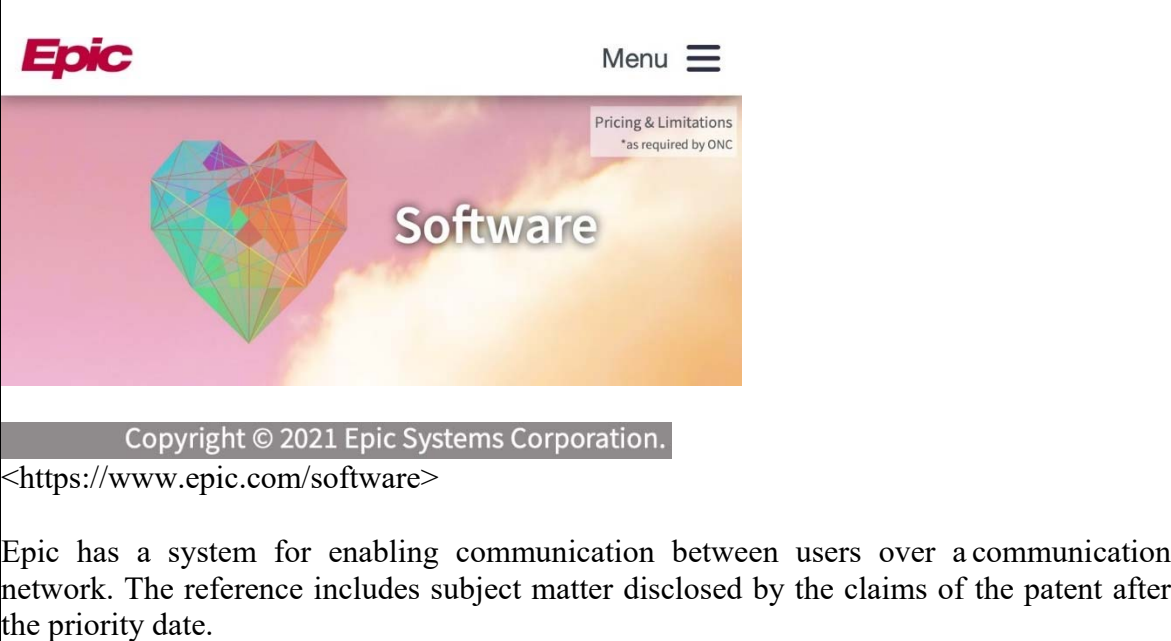
15. The '309 patent relates to a novel and improved system for secure communications over a public network.

16. Epic maintains, operates, and administers electronic health records through its website at [www.Epic.com](http://www.Epic.com), and other sources, that infringe one or more claims of the '309 patent, including one or more of claims 1-17, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '309 Patent into service (i.e., used them); but for Defendant's actions, the claimed-invention's embodiments involving Defendant's products and services



would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

17. Support for the allegations of infringement may be found in the following preliminary table:

US8381309 B2	Epic's Accused Systems
<p>9. A system for enabling communication between users over a communication network, the system comprising;</p>	 <p>Copyright © 2021 Epic Systems Corporation. &lt;<a href="https://www.epic.com/software">https://www.epic.com/software</a>&gt;</p> <p>Epic has a system for enabling communication between users over a communication network. The reference includes subject matter disclosed by the claims of the patent after the priority date.</p>

US8381309 B2	Epic's Accused Systems
<p>a server system associated with a database comprising verified data relating an individual, said server system being configured and operable to verify at least some of the data so as to authenticate an identity of the individual;</p>	<div data-bbox="402 296 500 394"> </div> <div data-bbox="505 296 1073 394"> <p><b>Customer Relationship Management</b> Provide outstanding service and manage correspondence with members, vendors and employers in one integrated database.</p> </div> <p data-bbox="386 407 818 443">&lt;<a href="https://www.epic.com/software">https://www.epic.com/software</a>&gt;</p> <p data-bbox="386 478 1544 590">The reference describes a server system associated with a database comprising verified data relating an individual, said server system being configured and operable to verify at least some of the data so as to authenticate an identity of the individual.</p>

US8381309 B2	Epic's Accused Systems
<p>determining a level of reliability in authenticity based on correspondence between data on said individual entered by a plurality of related individuals; and</p>	<div data-bbox="402 940 1044 1283"> </div> <p data-bbox="386 1295 818 1331">&lt;<a href="https://www.epic.com/software">https://www.epic.com/software</a>&gt;</p> <div data-bbox="402 1367 1094 1486"> <p><b>Care Everywhere Authorization</b> Give authorization for your healthcare providers to use Care Everywhere to share your medical record with other healthcare organizations when it's needed for your care.</p> </div> <p data-bbox="386 1499 867 1535">&lt;<a href="https://www.mychart.com/Features">https://www.mychart.com/Features</a>&gt;</p> <p data-bbox="386 1570 1544 1640">The reference describes determining a level of reliability in authenticity based on correspondence between data on said individual entered by a plurality of related individuals.</p>

US8381309 B2	Epic's Accused Systems
<p>the system being configured to define one or more levels of permitted communication between individuals in the database and the verified individual on the basis of said verification.</p>	<div data-bbox="410 306 480 373"> </div> <div data-bbox="513 306 979 394"> <p><b>Look-Alikes</b> Find another patient with the same rare symptoms as your patient's and communicate with that person's doctor.</p> </div> <div data-bbox="358 415 794 449"> <p>&lt;<a href="https://www.epic.com/software">https://www.epic.com/software</a>&gt;</p> </div> <p>The reference describes the system being configured to define one or more levels of permitted communication between individuals in the database and the verified individual on the basis of said verification.</p>

18. These allegations of infringement are preliminary and are therefore subject to change.

19. Epic has and continues to induce infringement. Epic has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet) and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–17 of the '309 patent, literally or under the doctrine of equivalents. Moreover, Epic has known of the '309 patent and the technology underlying it from at least the date of issuance of the patent.

20. Epic has and continues to contributorily infringe. Epic has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet) and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–17 of the '309 patent, literally or under the doctrine of equivalents. Moreover, Epic has known of the '309 patent and the technology underlying it from at least the date of issuance of the patent.

21. Epic has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '309 patent.

**IV. JURY DEMAND**

22. DatRec hereby requests a trial by jury on issues so triable by right.

**V. PRAYER FOR RELIEF**

WHEREFORE, DatRec, LLC prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '158 patent and the '309 patent;
- b. award DatRec damages in an amount sufficient to compensate it for Defendant's infringement of the '158 patent and the '309 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award DatRec an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award DatRec its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction

in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of valid patents, and treble damages of that amount in view of the fact that the future infringement will be willful as a matter of law; and

g. award DatRec such other and further relief as this Court deems just and proper.

Dated this 16th day of April, 2021.

DAVIS & KUELTHAU, s.c.

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